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SENATE BILL 497

**46TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2004**

INTRODUCED BY

Michael S. Sanchez

AN ACT

RELATING TO PUBLIC EMPLOYEES; AMENDING THE PUBLIC EMPLOYEES  
RETIREMENT ACT TO PROVIDE FOR CONSERVATION OFFICERS;  
RECONCILING CONFLICTING VERSIONS OF LAWS 2003.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 10-11-2 NMSA 1978 (being Laws 1987,  
Chapter 253, Section 2, as amended) is amended to read:

"10-11-2. DEFINITIONS.--As used in the Public Employees  
Retirement Act:

A. "accumulated member contributions" means the  
amounts deducted from the salary of a member and credited to  
the member's individual account, together with interest, if  
any, credited to that account;

B. "affiliated public employer" means the state and  
any public employer affiliated with the association as provided

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1 in the Public Employees Retirement Act, but does not include an  
2 employer pursuant to the Magistrate Retirement Act, the  
3 Judicial Retirement Act or the Educational Retirement Act;

4 C. "association" means the public employees  
5 retirement association established under the Public Employees  
6 Retirement Act;

7 D. "disability retired member" means a retired  
8 member who is receiving a pension pursuant to the disability  
9 retirement provisions of the Public Employees Retirement Act;

10 E. "disability retirement pension" means the  
11 pension paid pursuant to the disability retirement provisions  
12 of the Public Employees Retirement Act;

13 F. "educational retirement system" means that  
14 retirement system provided for in the Educational Retirement  
15 Act;

16 G. "employee" means any employee of an affiliated  
17 public employer;

18 H. "federal social security program" means that  
19 program or those programs created and administered pursuant to  
20 the act of congress approved August 14, 1935, Chapter 531, 49  
21 Stat. 620, as that act may be amended;

22 I. "final average salary" means the final average  
23 salary calculated in accordance with the provisions of the  
24 applicable coverage plan;

25 J. "form of payment" means the applicable form of

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1 payment of a pension provided for in Section 10-11-117 NMSA  
2 1978;

3 K. "former member" means a person who was  
4 previously employed by an affiliated public employer, who has  
5 terminated that employment and who has received a refund of  
6 member contributions;

7 L. "fund" means the funds included under the Public  
8 Employees Retirement Act;

9 M. "member" means a currently employed,  
10 contributing employee of an affiliated public employer, or a  
11 person who has been but is not currently employed by an  
12 affiliated public employer, who has not retired and who has not  
13 received a refund of member contributions; "member" also  
14 includes the following:

15 (1) "adult correctional officer member" means  
16 a member who is an adult correctional officer or an adult  
17 correctional officer specialist employed by a correctional  
18 facility of the corrections department or its successor agency;

19 (2) "conservation officer member" means a  
20 member who is an officer of the department of game and fish and  
21 who has taken the oath prescribed for such officers;

22 [+2] (3) "hazardous duty member" means a  
23 member who is a juvenile correctional officer employed by the  
24 children, youth and families department or its successor  
25 agency;

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1                    [~~3~~] (4) "municipal detention officer member"  
2 means a member who is employed by an affiliated public employer  
3 other than the state and who has inmate custodial  
4 responsibilities at a facility used for the confinement of  
5 persons charged with or convicted of a violation of a law or  
6 ordinance;

7                    [~~4~~] (5) "municipal fire member" means any  
8 member who is employed as a full-time nonvolunteer firefighter  
9 by an affiliated public employer and who has taken the oath  
10 prescribed for firefighters;

11                    [~~5~~] (6) "municipal police member" means any  
12 member who is employed as a police officer by an affiliated  
13 public employer, other than the state, and who has taken the  
14 oath prescribed for police officers; and

15                    [~~6~~] (7) "state police member" means any  
16 member who is an officer of the New Mexico state police and who  
17 has taken the oath prescribed for such officers;

18                    N. "membership" means membership in the  
19 association;

20                    O. "pension" means a series of monthly payments to  
21 a retired member or survivor beneficiary as provided in the  
22 Public Employees Retirement Act;

23                    P. "public employer" means the state, any  
24 municipality, city, county, metropolitan arroyo flood control  
25 authority, economic development district, regional housing

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1 authority, soil and water conservation district, entity created  
2 pursuant to a joint powers agreement, council of government,  
3 conservancy district, water and sanitation district, water  
4 district and metropolitan water board, including the boards,  
5 departments, bureaus and agencies of a public employer, so long  
6 as these entities fall within the meaning of governmental plan  
7 as that term is used in Section 414(d) of the Internal Revenue  
8 Code of 1986, as amended;

9 Q. "refund beneficiary" means a person designated  
10 by the member, in writing, in the form prescribed by the  
11 association, as the person who would be refunded the member's  
12 accumulated member contributions payable if the member dies and  
13 no survivor pension is payable or who would receive the  
14 difference between pension paid and accumulated member  
15 contributions if the retired member dies before receiving in  
16 pension payments the amount of the accumulated member  
17 contributions;

18 R. "retire" means to:

19 (1) terminate employment with all employers  
20 covered by any state system or the educational retirement  
21 system; and

22 (2) receive a pension from a state system or  
23 the educational retirement system;

24 S. "retired member" means a person who has met all  
25 requirements for retirement and who is receiving a pension from

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1 the fund;

2 T. "retirement board" means the retirement board  
3 provided for in the Public Employees Retirement Act;

4 U. "salary" means the base salary or wages paid a  
5 member, including longevity pay, for personal services rendered  
6 an affiliated public employer. "Salary" shall not include  
7 overtime pay, allowances for housing, clothing, equipment or  
8 travel, payments for unused sick leave, unless the unused sick  
9 leave payment is made through continuation of the member on the  
10 regular payroll for the period represented by that payment, and  
11 any other form of remuneration not specifically designated by  
12 law as included in salary for Public Employees Retirement Act  
13 purposes. Salary in excess of the limitations set forth in  
14 Section 401(a) (17) of the Internal Revenue Code of 1986, as  
15 amended, shall be disregarded. The limitation on compensation  
16 for eligible employees shall not be less than the amount that  
17 was allowed to be taken into account under the state retirement  
18 system acts in effect on July 1, 1993. For purposes of this  
19 subsection, "eligible employee" means an individual who was a  
20 member of a state system before the first plan year beginning  
21 after December 31, 1995;

22 V. "state system" means the retirement programs  
23 provided for in the Public Employees Retirement Act, the  
24 Magistrate Retirement Act and the Judicial Retirement Act;

25 W. "state retirement system acts" means

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1 collectively the Public Employees Retirement Act, the  
2 Magistrate Retirement Act, the Judicial Retirement Act and the  
3 Volunteer Firefighters Retirement Act; and

4 X. "survivor beneficiary" means a person who  
5 receives a pension or who has been designated to be paid a  
6 pension as a result of the death of a member or retired  
7 member."

8 Section 2. Section 10-11-27 NMSA 1978 (being Laws 1987,  
9 Chapter 253, Section 27, as amended by Laws 2003, Chapter 268,  
10 Section 9 and by Laws 2003, Chapter 269, Section 1) is amended  
11 to read:

12 "10-11-27. STATE POLICE MEMBER, ADULT CORRECTIONAL  
13 OFFICER MEMBER AND CONSERVATION OFFICER MEMBER COVERAGE PLAN  
14 1--APPLICABILITY.--

15 A. State police member, adult correctional officer  
16 member and conservation officer member coverage plan 1 is  
17 applicable to state police members who are not specifically  
18 covered by another coverage plan, adult correctional officer  
19 members and conservation officer members. The credited service  
20 of a state police member who has held the permanent rank of  
21 patrolman, sergeant, lieutenant or captain and does not hold an  
22 exempt rank or who is assigned to the aircraft division as a  
23 pilot or the credited service of an adult correctional officer  
24 member or conservation officer member shall have actual  
25 credited service increased by twenty percent for the purposes

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1 of state police member, adult correctional officer member and  
2 conservation officer member coverage plan 1.

3 B. State police member and adult correctional  
4 officer member coverage plan 1 is applicable to adult  
5 correctional officer members in the first full pay period after  
6 July 1, 2004 if the retirement board certifies to the secretary  
7 of state that, of those adult correctional officer members to  
8 be covered under state police member and adult correctional  
9 officer member coverage plan 1, a majority of the members  
10 voting have voted to approve adoption of that plan at an  
11 election conducted pursuant to Laws 2003, Chapter 268, Section  
12 16.

13 C. State police member, adult correctional officer  
14 member and conservation officer member coverage plan 1 is  
15 applicable to conservation officer members in the first full  
16 pay period after July 1, 2005 if the retirement board certifies  
17 to the secretary of state that, of those conservation officer  
18 members to be covered under state police member, adult  
19 correctional officer member and conservation officer member  
20 coverage plan 1, a majority of the members voting have voted to  
21 approve adoption of that plan at an election."

22 Section 3. Section 10-11-27.1 NMSA 1978 (being Laws 2003,  
23 Chapter 268, Section 10) is amended to read:

24 "10-11-27.1. STATE POLICE MEMBER, ~~AND~~ ADULT  
25 CORRECTIONAL OFFICER MEMBER AND CONSERVATION OFFICER MEMBER

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1 COVERAGE PLAN 1--SERVICE CREDIT REQUIRED.--Notwithstanding the  
2 provisions of Section 10-11-27 NMSA 1978, to qualify for  
3 payment under state police member, [~~and~~] adult correctional  
4 officer member and conservation officer member coverage plan 1,  
5 an adult correctional officer member shall have eighteen months  
6 of service credit earned under the state police member and  
7 adult correctional officer member coverage plan 1 subsequent to  
8 July 1, 2004. A conservation officer member shall have  
9 eighteen months service credit earned under the state police,  
10 adult correctional officer and conservation officer member  
11 coverage plan 1 subsequent to July 1, 2005."

12 Section 4. Section 10-11-28 NMSA 1978 (being Laws 1987,  
13 Chapter 253, Section 28, as amended) is amended to read:

14 "10-11-28. STATE POLICE MEMBER, [~~AND~~] ADULT CORRECTIONAL  
15 OFFICER MEMBER AND CONSERVATION OFFICER MEMBER COVERAGE PLAN  
16 1--AGE AND SERVICE REQUIREMENTS FOR NORMAL RETIREMENT.--Under  
17 state police member, [~~and~~] adult correctional officer member  
18 and conservation officer member coverage plan 1, the age and  
19 service requirements for normal retirement are:

20 A. age sixty-five years or older and five or more  
21 years of credited service;

22 B. age sixty-four years and eight or more years of  
23 credited service;

24 C. age sixty-three years and eleven or more years  
25 of credited service;

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1           D. age sixty-two years and fourteen or more years  
2 of credited service;

3           E. age sixty-one years and seventeen or more years  
4 of credited service;

5           F. age sixty years and twenty or more years of  
6 credited service; or

7           G. any age and twenty-five or more years of  
8 credited service."

9           Section 5. Section 10-11-29 NMSA 1978 (being Laws 1987,  
10 Chapter 253, Section 29, as amended) is amended to read:

11           "10-11-29. STATE POLICE MEMBER, [~~AND~~] ADULT CORRECTIONAL  
12 OFFICER MEMBER AND CONSERVATION OFFICER MEMBER COVERAGE PLAN  
13 1--AMOUNT OF PENSION--FORM OF PAYMENT A.--Under state police  
14 member, [~~and~~] adult correctional officer member and  
15 conservation officer member coverage plan 1, the amount of  
16 pension under form of payment A is equal to three percent of  
17 final average salary multiplied by credited service. The  
18 amount shall not exceed eighty percent of the final average  
19 salary."

20           Section 6. Section 10-11-30 NMSA 1978 (being Laws 1987,  
21 Chapter 253, Section 30, as amended) is amended to read:

22           "10-11-30. STATE POLICE MEMBER, [~~AND~~] ADULT CORRECTIONAL  
23 OFFICER MEMBER AND CONSERVATION OFFICER MEMBER COVERAGE PLAN  
24 1--FINAL AVERAGE SALARY.--Under state police member, [~~and~~]  
25 adult correctional officer member and conservation officer

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1 member coverage plan 1, the final average salary is one thirty-  
2 sixth of the greatest aggregate amount of salary paid a member  
3 for thirty-six consecutive months of credited service. Under  
4 state police member, [~~and~~] adult correctional officer member  
5 and conservation officer member coverage plan 1, if a state  
6 police member has less than thirty-six months of credited  
7 service, the final average salary is the aggregate amount of  
8 salary paid a member for the member's period of credited  
9 service divided by the member's credited service."

10 Section 7. Section 10-11-31 NMSA 1978 (being Laws 1987,  
11 Chapter 253, Section 31, as amended) is amended to read:

12 "10-11-31. STATE POLICE MEMBER, [~~AND~~] ADULT CORRECTIONAL  
13 OFFICER MEMBER AND CONSERVATION OFFICER MEMBER COVERAGE PLAN  
14 1--MEMBER CONTRIBUTION RATE.--A member under state police  
15 member, [~~and~~] adult correctional officer member and  
16 conservation officer member coverage plan 1 shall contribute  
17 seven and six-tenths percent of salary."

18 Section 8. Section 10-11-32 NMSA 1978 (being Laws 1987,  
19 Chapter 253, Section 32, as amended) is amended to read:

20 "10-11-32. STATE POLICE MEMBER, [~~AND~~] ADULT CORRECTIONAL  
21 OFFICER MEMBER AND CONSERVATION OFFICER MEMBER COVERAGE PLAN  
22 1--STATE CONTRIBUTION RATE.--The state shall contribute twenty-  
23 five and one-tenth percent of the salary of each member under  
24 state police member, [~~and~~] adult correctional officer member  
25 and conservation officer member coverage plan 1."

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